

ORIGINAL

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E-filing

Attorneys for United States of America

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

APPROXIMATELY \$72,000 IN UNITED
STATES CURRENCY,

Defendant.

CV 08

No.

1305 CS

COMPLAINT FOR FORFEITURE

NATURE OF THE ACTION

1. This is a judicial forfeiture action, as authorized by 21 U.S.C. § 881(a)(6), involving the seizure of defendant Approximately \$72,000 in United States Currency ("defendant \$72,000") which was seized as money furnished or intended to be furnished by a person in exchange for a controlled substance, or money traceable to such an exchange, or money used or intended to be used to facilitate a violation Subchapter I, Chapter 13 of Title 21 United States Code.

JURISDICTION AND VENUE

2. This Court has jurisdiction under 28 U.S.C. §§ 1345 and 1355(a), and 21 U.S.C.

FILED
03 MAR -6 AM 11:12
RICHARD W. WELKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
Noson
ISS w/A

§ 881(a)(6).

3. This action is timely filed in accordance with 18 U.S.C. § 983(a)(3)(A).

4. Venue in this Court is proper because defendant \$72,000 was seized in the Northern District of California. 28 U.S.C. §§ 1355(b) and 1395.

5. Intra-district venue is proper in the Oakland Division within the Northern District of California.

PARTIES

6. Plaintiff is the United States of America.

7. Defendant is Approximately \$72,000 in United States Currency.

FACTS

8. On October 16, 2007, San Francisco Postal Inspectors seized \$72,000 in United States Currency from Express Mail package EB 406580511 US (hereinafter "Express Mail package") which was opened pursuant to written consent from Earl Kennedy, Jr., (hereinafter "Kennedy") the intended recipient.

9. Kennedy had previously been identified as a frequent recipient of Express Mail packages from Baton Rouge, Louisiana, sent initially to 267 Sextus Road, Oakland, California, 94603 and later to P.O. Box 27215, Oakland, California, 94542. Due to the unusual number of Express Mail packages being received at P.O. Box 27215, a mail watch had been placed on the Post Office box on September 26, 2007, by United States Postal Inspector Megan Bradley (hereinafter "Inspector Bradley").

10. On October 13, 2007, Inspector Bradley was notified that an eighteen pound Express Mail package addressed to Kennedy, at P.O. Box 27215, Oakland, California, 94602 was being held at the United States Post Office at 2226 MacArthur Boulevard, Oakland, California. The return address on the package was Robert Porter, 2901 Jefferson Highway #522, Baton Rouge, Louisiana, 70816.

11. Inspector Bradley reviewed Postal Service Form 1093 which was used to open P.O. Box 27215 and determined that it had been completed by Kennedy on October 6, 2005, using California Driver's License #B9646774 as identification and listing 898 Davis, #202, San

1 Leandro, California, 94577 as his home address on the application. According to the mail carrier
2 for that address, Kennedy had moved from the Davis Street address two years ago.

3 12. On October 15, 2007, a certified narcotics detection canine, Xena, alerted to the
4 Express Mail package.

5 13. On October 16, 2007, Inspector Bradley attempted to reach Kennedy using the
6 phone number listed on the Express mail package, (510) 393-5969. She left two messages for
7 Kennedy stating that she was from the Post Office and was holding his Express Mail package.
8 She did not receive a return phone call.

9 14. After approximately one hour and twenty minutes, Inspector Bradley called the
10 telephone number listed for the sender, Robert Porter (225) 266-0772. A male answered and
11 identified himself as "Robert". Inspector Bradley told him that she was trying to get in touch
12 with Kennedy regarding his Express Mail package. Robert said he would call Kennedy and have
13 him come to the Post Office to pick up the package.

14 15. Approximately five minutes later, Inspector Bradley received a telephone call
15 from Kennedy who told her he was coming to the Post Office to pick up his package that had
16 been "missent." Inspector Bradley told Kennedy to ask for "Megan" when he arrived at the Post
17 Office.

18 16. Inspector Bradley waited to the side of the retail counter inside the Post Office.
19 She observed an African-American male, who resembled the California Driver's License picture
20 for Earl Kennedy, Jr., approach the counter. As he approached the counter, Kennedy asked
21 Inspector Bradley if she was "Megan". Inspector Bradley identified herself, showed her
22 credentials and explained that she was a Postal Inspector.

23 17. Kennedy told Inspector Bradley that he was not expecting a package. He
24 provided written consent for the Express Mail package to be opened. The Express Mail package
25 contained a VCR and two small DVD players. Kennedy said that his cousin, David, sometimes
26 send him equipment for their film making business, but he did not know a Robert Porter who
27 was listed as the sender on the Express Mail package. When questioned further about the film
28 business, Kennedy said he does not advertise or have a website. He stated that he is known on

1 the streets and people just know where to find him when they want one of his movies.

2 18. Further examination of the equipment revealed four vacuum sealed packages of
3 money secreted into the shells of the VCR and DVD players. When questioned about the money,
4 Kennedy stated he knew nothing about it and the Postal Inspectors could take it. Kennedy
5 provided a written disclaimer for the package.

6 19. Kennedy stated he lives with his girlfriend, Jasmine, in San Leandro, but he was
7 not sure of her actual address. Inspector Bradley later discovered that a Jasmine Wilson, at
8 26970 Hayward Boulevard, #509, Hayward, California, 94542, had received an Express Mail
9 package from Robert Porter on June 8, 2007. She had received Express Mail packages from
10 Robert Porter on March 19, 2007, and May 17, 2007 at P.O. Box 55521, Hayward,
11 California, 94542. She also had received two other Express Mail packages from Baton Rouge,
12 Louisiana on May 21, 2007 and July 11, 2007.

13 20. Immediately after Kennedy left, Inspector Bradley called Robert Porter and told
14 him that Kennedy had denied knowing Robert Porter and that Kennedy had said he was not
15 expecting a package. Porter asked if she had spoken with the "real Earl Kennedy". Inspector
16 Bradley replied that she had seen Kennedy's driver's license and she had spoken with the "real
17 Earl Kennedy." Porter stated that he had notified Kennedy that this particular package was in
18 the mail. Porter also said that he had just spoken to Kennedy to tell him that the package was at
19 the Post Office. When asked about the contents of the package, Porter described a VCR and two
20 DVD players; he did not mention money. Porter was agitated and asked that the package be
21 returned to him. When Inspector Bradley asked Porter if there was any reason a narcotics canine
22 would alert to the package, Porter immediately hung up the phone.

23 21. On October 19, 2007, Inspector Bradley received a call from Robert Porter who
24 asked about his money. Inspector Bradley had never told Porter that money was found in the
25 Express Mail Package sent to Kennedy. Later that same day, Kennedy returned to the Post
26 Office and stated he had changed his mind and wanted his parcel back.

27 22. The denominations of the defendant \$72,000 were: 137 x \$100 dollar bills; 5 x
28 \$50 dollar bills; 2,791 x \$20 dollar bills; 223 x \$10 dollar bills. The packaging and

1 denominations of defendant \$72,000 are consistent with those used for, or from, the sale of
2 illegal controlled substances. When Inspector Bradley opened the vacuumed sealed bags, a
3 strong odor of men's cologne emitted from the bags. Based upon her training and experience
4 Inspector Bradley knew that narcotics traffickers often try throw off a narcotics canine by using
5 cologne or another odor masking agent.

6 23. During the course of her investigation Inspector Bradley discovered that Kennedy
7 had been convicted in 2003 of a violation of California Health and Safety Code §11357(A)
8 Possession of Concentrated Cannabis in Oakland, California. Robert Porter had been convicted
9 in 2000 in Oakland, California of a violation of California Health and Safety Code § 11360(A),
10 Sell/Furnish/Marijuana/Hash.

11 24. Due to the totality of the circumstances, defendant \$72,00 in United States
12 currency was seized as money furnished or intended to be furnished by a person in exchange for
13 a controlled substance, or traceable to such an exchange, or money used or intended to be used to
14 facilitate a violation of Subchapter I, Chapter 13 of Title 21 United States Code.

15 VIOLATION

16 25. The United States incorporates by reference the allegations in paragraphs one
17 through twenty-four as though fully set forth.

18 26. Section 881(a)(6) of Title 21 of the United States Code, provides for the
19 forfeiture of all money furnished or intended to be furnished by any person in exchange for a
20 controlled substance or listed chemical in violation of Subchapter I, Chapter 13 of Title 21
21 United States Code, all proceeds traceable to such an exchange and all money used or intended
22 to be used to facilitate any violation of Subchapter I, Chapter 13 of Title 21 United States Code.

23 27. In light of the foregoing, defendant \$72,000 in United States Currency is subject
24 to judicial forfeiture.

25 * * * * *

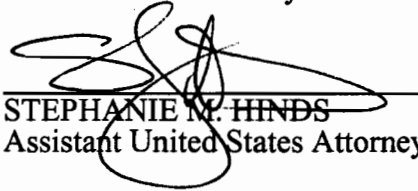
26 WHEREFORE, plaintiff United States of America requests that due process issue to
27 enforce the forfeiture of defendant \$72,000; that notice be given to all interested parties to appear
28 and show cause why forfeiture should not be decreed; that judgment of forfeiture be entered; that

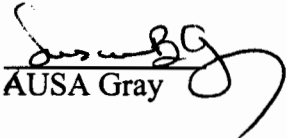
1 the Court enter judgment forfeiting defendant \$72,000; and that the United States be awarded
2 such other relief as may be proper and just.

3 Respectfully submitted,

4 JOSEPH P. RUSSONIELLO
5 United States Attorney

6 Dated: March 4, 2008

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8 STEPHANIE M. HINDS
9 Assistant United States Attorney

10 Assigned to: 

11 AUSA Gray
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VERIFICATION

1 I, Megan Bradley, state as follows:

2 1. I am a Postal Inspector with the United States Postal Inspection, and I am the case
3 agent for the seizure of approximately \$72,000. As such, I am familiar with the facts, and the
4 investigation leading to the filing of this Complaint for Forfeiture.

5 2. I have read the Complaint and believe the allegations contained in it to be true.

6 * * * * *

7 I declare under penalty of perjury that the foregoing is true and correct. Executed this
8 4th day of March, 2008, in San Francisco, California.

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Megan Bradley
MEGAN BRADLEY
Postal Inspector

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United States Postal Inspection Service

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Complaint for Forfeiture

28 08-

JS 44 (Rev. 11/04)

CIVIL COVER SHEET

JCS

①

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

UNITED STATES OF AMERICA

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)
AUSA Susan B. Gray
450 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102
415-436-7324

DEFENDANTS

APPROXIMATELY \$72,000 IN UNITED STATES CURRENCY

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED.
Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☒ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☐ 3 Federal Question (U.S. Government Not a Party)
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State ☐ 1 PTF ☐ 1 DEF ☐ 1 Incorporated or Principal Place of Business In This State
Citizen of Another State ☐ 2 PTF ☐ 2 DEF ☐ 2 Incorporated and Principal Place of Business In Another State
Citizen or Subject of a Foreign Country ☐ 3 PTF ☐ 3 DEF ☐ 3 Foreign Nation ☐ 4 PTF ☐ 4 DEF ☐ 4
☐ 5 PTF ☐ 5 DEF ☐ 5
☐ 6 PTF ☐ 6 DEF ☐ 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify)
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

TITLE 21, UNITED STATES CODE, SECTION 881 (a)(6)

Brief description of cause:

Drug Related Forfeiture

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND:

☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

3/4/08

Susan B. Gray

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____